

UNITED STATES DISTRICT COURT

NORTHERN

District of

NEW YORK

UNITED STATES OF AMERICA

V.

AAR CONTRACTOR INC.

Date of Original Judgment: December 23, 2004
(or Date of Last Amended Judgment)AMENDED JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: DNYN5:02CR000051-010

Russell M. Gioiella and Richard M. Asche
Defendant Organization's Attorney

Reason for Amendment:

- ☒ Correction of Sentence on Remand (18 U.S.C. § 3742(f)(1) and (2))
☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))

- ☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)
☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
☐ Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT ORGANIZATION:

- ☐ pleaded guilty to count(s) _____
☐ pleaded nolo contendere to count(s) _____
 which was accepted by the court.
☒ was found guilty on count(s) 1 through 11 of the Superseding Indictment on March 30, 2004.
 after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1962 (d)	Racketeering Conspiracy	5/10/01	1
41 U.S.C. § 7401 and 18 U.S.C. § 371	Conspiracy to Violate the Clean Air Act and Toxic Substances Control Act	5/10/01	2
42 U.S.C. § 7413 (c)	Violation of the Clean Air Act	10/11/98	3-11
18 U.S.C. § 1963 (a)(1) and (3)	Forfeiture Allegation		

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

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LAWRENCE K. BAERMAN, CLERK
ALBANY

ORIGINAL

The defendant organization is sentenced as provided in pages 2 through 3 of this judgment.

- ☐ The defendant organization has been found not guilty on count(s) _____
☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's
Federal Employer I.D. No.: 14-1712139

Defendant Organization's Principal Business Address:

862 Albany Shaker RoadLatham, New York 12110November 30, 2006

Date of Imposition of Judgment

Signature of Judge

Honorable Lawrence J. Kahn, U.S. District Judge
Name and Title of JudgeLawrence E. Kahn
U.S. District Judge

DEFENDANT ORGANIZATION: AAR CONTRACTOR INC.
CASE NUMBER: DNYN5:02CR000051-010

CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 4400.00	\$ 0	\$ 22,875,575.46

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
See Attachment A (Priority Victims) and Attachment B (Non-Priority Victims) to be provided by the U.S. Attorney's Office.			

TOTALS	\$ <u>22,875,575.46</u>	\$ <u>22,875,575.46</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

Pursuant to 18 U.S.C. § 3612(f).

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT ORGANIZATION: AAR CONTRACTOR INC.
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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are be due as follows:

- A ☒ Lump sum payment of \$ 4,400.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance with ☐ C or ☒ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below; or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
The restitution is due immediately, with any remaining restitution payable at a minimal rate of \$500 per month or 10% of its gross income, whichever is greater. If at any time the defendant organization has the resources to pay full restitution, it must do so immediately. Restitution shall be made payable to the Lawrence K. Baerman, Clerk, U.S. District Court, Federal Building, 100 South Clinton Street, P.O. Box 7367, Syracuse, New York, 13261-7367 for disbursement to the victims. Priority shall be given to those victims submitting specific claims and any restitution payments for which the victim is not seeking compensation or for which the victim can no longer be located, shall be directed to the crime victim fund.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant numbers), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

The defendant organization shall be jointly and severally liable for this restitution amount with codefendants Alexander Salvagno, Dkt # DNYN5:02CR000051-001 and Raul Salvagno DNYN5:02CR000051-003.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☒ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:
As outlined in the Forfeiture Allegations, pursuant to 18 U.S.C. § 1963 (a)(1) and (3), and determined by the jury, the defendant is responsible for the Forfeiture of \$2,033,457.70.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.